



April 26, 2000

Ms. Lamis A. Safa
Assistant City Attorney
City of Houston
Post Office Box 1562
Houston, Texas 77251-1562

OR2000-1623

Dear Ms. Safa:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 135771.

The City of Houston received a request for 17 offense reports. You state that one of the reports, no. 089280699N, has been released to the requestor. You assert that some of the remaining reports are excepted from public disclosure pursuant to subsection 552.108(a)(1) or 552.108(a)(2) of the Government Code, and some are excepted under section 552.101 in conjunction with section 58.007 of the Texas Family Code. You also state that the responsive information includes criminal history record information ("CHRI") and contend that such is excepted from disclosure under section 552.101 and federal and state laws. Additionally, you argue that the driver's license numbers, vehicle title or registration information, and vehicle identification numbers contained within some of the reports are excepted from public disclosure under section 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the information submitted.

We first address the reports contained in exhibit six. Report nos. 019167300B, 123458999A, 117489099X, and 013440600M involve juvenile suspects. You argue that these reports are excepted pursuant to Government Code section 552.101 in conjunction with Texas Family Code section 58.007. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses confidentiality provisions such as Family Code section 58.007. Section 58.007(c) provides that "law enforcement records and files

concerning a child . . . may not be disclosed to the public[.]” Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. These reports contain information regarding juvenile conduct that occurred after September 1, 1997. It does not appear that any of the exceptions in section 58.007 apply; therefore, the reports are confidential pursuant to section 58.007(c) of the Family Code. You must withhold these four reports, in their entirety, under section 552.101 of the Government Code.

We will consider your section 552.108 arguments for the remaining exhibits. You argue that the reports contained in exhibits 2-5 are excepted from public disclosure pursuant to subsection 552.108(a)(1) or 552.108(a)(2) of the Government Code. Section 552.108(a)(2) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” The offense report contained in exhibit no. 3 relates to a case which was closed by investigation. Therefore, you may withhold this report pursuant to section 552.108(a)(2). Section 552.108(a)(1) excepts from public disclosure information which would “interfere with the detection, investigation, or prosecution of crime[.]” You offer the following explanations regarding the reports contained in exhibits 2, 4, and 5: the reports contained in exhibit 2 are inactive pending further leads, and the statute of limitations has not run; the report in exhibit 4 relates to a case which is pending prosecution; and the reports in exhibit 5 relate to cases that are open and under investigation. Therefore, we find that most of the requested information in exhibits 2, 4, and 5 is excepted from disclosure pursuant to section 552.108(a)(1).

However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. *See* Gov’t Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App. --Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the requested report. Thus, with the exception of the juvenile reports contained in exhibit 6, which we have determined must be withheld, and of the basic front page offense information which must be disclosed, you may withhold the offense reports contained in exhibits 2-5 based on subsections 552.108(a)(1) and 552.108(a)(2). Although section 552.108(a) authorizes you to withhold the remaining information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov’t Code § 552.007. Because section 552.108 is dispositive, we need not address your other claimed exceptions.

This letter ruling is limited to the particular records at issue in this request and to the facts as presented to us. Therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

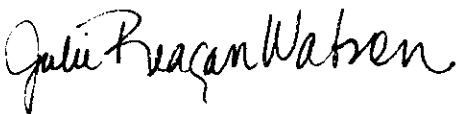
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink that reads "Julie Reagan Watson". The signature is written in a cursive, flowing style.

Julie Reagan Watson
Assistant Attorney General
Open Records Division

JRW/cwt

Ref: ID#135771

Encl. Submitted documents

cc: Mr. Joe Allen Svadlenak
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(w/o enclosures)